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03-31-2003

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #70

Opposition No.: _____

Serial No. 78/114,326

Applicant.

THE PROCTER & GAMBLE COMPANY believes that it will be damaged by registration of the mark SECRET 77, Serial No. 78/114,326 published in the *Official Gazette* of December 31, 2002, and hereby opposes registration of same on the following grounds:

1. Opposer, The Procter & Gamble Company (hereinafter "Procter & Gamble" or "Opposer") is a corporation organized and existing under the laws of the State of Ohio, having its principal office and place of business at One Procter & Gamble Plaza, Cincinnati, Ohio 45202.

2. Opposer's business, among other things, includes the manufacture and sale of personal care products such as deodorants and antiperspirants.

3. Since long prior to March 12, 2002, the date Intimate Beauty Corporation (hereinafter "Applicant") filed the present intent-to-use application to register the

trademark SECRET 77 for, in part, "anti-perspirant" and "deodorant," Opposer has engaged in the business of manufacturing and selling in interstate commerce anti-perspirants and deodorants bearing the trademark SECRET.

4. The trademark SECRET was adopted by Opposer as a trademark for "anti-perspirant and deodorant" in March of 1956. The trademark SECRET has been used continuously since 1956 by Opposer on such goods in interstate commerce by applying labels bearing the trademarks to the packages in which the goods are shipped and sold and onto the containers in which the goods are distributed and by displaying representations of the marks in advertising and in other ways customary to the trade.

5. Opposer is the owner of the entire right, title and interest in and to the trademark SECRET for use in connection with "anti-perspirant and deodorant" as well as several related marks consisting primarily of the term SECRET as evidenced by the following federal trademark applications and registrations in the U.S. Patent and Trademark Office on the Principal Register:

TRADEMARK	GOODS	APPLICATION NO. / DATE	REGISTRATION NO. / DATE	FIRST USE DATE
SECRET	Anti-perspirant and deodorant.	73/516,849 January 9, 1985	1,351,236 July 30, 1985	March 27, 1956
SECRET SKIN RENEWAL	Personal deodorant and anti-perspirant.	78/126,136 May 3, 2002	N/A	Pending - ITU.

The above listed applications and registrations are in all respects valid, subsisting and owned by Opposer, and the registered marks are currently in use. Opposer has filed affidavits of continuing use and incontestability under §§ 8 & 15 of the Act of 1946 for the registered mark.

6. Opposer's trademark SECRET and Applicant's trademark SECRET 77 are substantially similar.

7. Opposer's goods, "anti-perspirant and deodorant," and Applicant's goods, "anti-perspirant" and "deodorant," are identical.

8. The products for which Applicant seeks registration and Opposer's products would ordinarily be sold and distributed to the same classes of the purchasing public, and without limitation on the channels of trade, could pass through the same channels of trade.

9. Opposer has spent and continues to spend large sums of money in the advertisement of its goods bearing its trademark SECRET and by reason of such advertising and the high quality of its products carrying such trademark, Opposer enjoys a valuable goodwill and an enviable reputation with respect to its trademark and the goods associated therewith.

10. As a result of the foregoing, the purchasing public familiar with Opposer's products and Opposer's trademark SECRET are likely to be confused, misled or deceived into thinking that the products of Applicant are products of Opposer or are in some way sponsored by or connected with Opposer, to Opposer's irreparable damage and injury.

11. Opposer will be injured if registration is granted to Applicant because its mark SECRET 77 falsely suggests a connection with Opposer and Opposer's products bearing the SECRET trademark. Opposer has no control over the nature and quality of the goods produced by Applicant and sold under the SECRET 77 trademark, and thus, will be damaged and irreparably harmed by reason of the loss of control over its reputation and the erosion of its goodwill in the SECRET trademark.

12. As a result of over forty-five (45) years of continuous and substantial use, as well as significant amounts of advertising and sales, Opposer's trademark SECRET is a famous trademark within the meaning of §43(c) of the Lanham Act.

13. If registration is granted Applicant for its SECRET 77 trademark, Opposer will be further damaged and irreparably harmed, because registration and use of the SECRET 77 trademark is likely to dilute the distinctive quality of Opposer's SECRET trademark.

14. Applicant adopted the name SECRET 77 for use on its products with prior knowledge of Opposer's SECRET trademark.

15. For the reasons set forth above, Opposer believes and accordingly asserts that the goodwill in its SECRET trademark will be damaged by registration of Applicant's SECRET 77 trademark and that Applicant should therefore be denied registration of the term SECRET 77 for which it has made application.

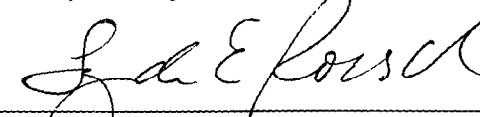
WHEREFORE, Opposer prays that said application, Serial No. 78/114,326 be refused registration.

Date: 3.28.03

OF COUNSEL:

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Respectfully submitted,



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Attorneys for Opposer,
The Procter & Gamble Company

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited, in triplicate, with the United States Postal Service as First Class Mail in an envelope addressed to the Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513 on this the 28 day of March, 2003.

[Handwritten signature]

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March 28, 2003

03-31-2003

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VIA FIRST CLASS MAIL

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Commissioner for Trademarks

2900 Crystal Drive

Arlington, VA 22202-3513

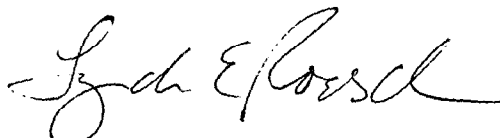
Re: In the Matter of Application Serial No. 78/114,326 filed 03/12/02
Trademark: SECRET 77

Dear Honorable Sir:

Enclosed is an original and two copies of The Procter & Gamble Company's Opposition to the mark, Serial No. 78/114,326. We have also enclosed a check for \$300 for the filing fee.

Kindly acknowledge receipt of the enclosures by stamping and returning the enclosed postcard. Please charge any additional fees which may be required, or credit any overpayment to our Deposit Account No. 04-1133.

Very truly yours,



Lynda E. Roesch

LER/kw

Enclosures

cc: Vanessa M. Nichols, Esq.

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Dayton OH • Lexington KY • Louisville KY • Nashville TN • Pittsburgh PA

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